IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 521 of 1988

For Approval and Signature:

HONOURABLE MR.JUSTICE KS JHAVERI

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DEVI BUDHA & 4 - Appellant(s)
Versus
NARENDRA AND CO - Defendant(s)

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Appearance :
MR NIRAV THAKKER for Appellant(s) : 1 - 5.
MR YOGESH S LAKHANI for Defendant(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE KS JHAVERI

Date : 03/08/2006

ORAL JUDGMENT

1.0 By way of this appeal, the appellants have challenged the judgment and award of the learned Civil Judge (J.D.) and Ex-Officio Commissioner of Workmen's Compensation (for short 'the Authority'), Dwarka passed in W.C. Case No.21 of 1986 dated 01.07.1986.

2.0 The brief facts of the case are that deceased-Budha Kachra was working with the

opponent. On 10.12.1985, when deceased along with other workmen went in a 'Machhava' for the purpose of collecting pearls from the sea as a workmen of the opponent, the said 'Machhava' went turtle and he lost his life. Therefore, the present appellants being heirs and legal representatives of the deceased filed an application claiming compensation.

2.1 Pursuant to the filing of the aforesaid application, the opponent deposited an amount of Rs.20,000/- which was accepted by the appellants towards full and final settlement of claim. The said amount was later on distributed by the Authority vide impugned judgment and award dated 01.07.1986. The case of the appellants is that before accepting an amount of Rs.20,000/- towards full and final settlement towards the claim before the Authority, they were assured by the opponent that in addition to amount deposited by him with the Authority, they shall get an additional amount of Rs.20,000/- by way of

insurance of the deceased. Therefore, they agreed to accept Rs.20,000/- towards full and final settlement of the claim for compensation. Since, the opponent failed to pay the remaining Rs.20,000/- the appellants have preferred the present appeal.

3.0 Heard, learned Counsel for the parties. It is not in dispute that the deceased- Budha Kachra lost his life during the course of his employment as workman of the opponent. From the record it transpires that pursuant to the filing of the claim petition, though, the appellants were actually entitled to Rs.11,490/- only, the opponent deposited an amount of Rs.20,000/-. The said amount was deposited by the opponent towards his liability under the Workmen's Compensation Act before the Authority towards full and final settlement of the claim of compensation which was accepted by the appellants. Hence, in view of the fact that the appellants having accepted and paid Rs.20,000/- towards full and final settlement of

the claim by the opponent towards his liability under the Workmen's Compensation Act, it is now not open to the appellant to claim additional amount by way of compensation. Therefore, the appeal deserves to be dismissed.

4.0 In the result, the appeal stands dismissed. No order as to costs.

(K.S. Jhaveri,J.)

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